

CLAYTON V. CURTIS

IBLA 81-209

Decided April 22, 1981

Appeal from decision of the Wyoming State Office, Bureau of Land Management, declaring mining claims abandoned and void. W MC 159172 through 159174.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment--Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

2. Mining Claims: Abandonment--Mining Claims Assessment Work

The filing of evidence of annual assessment work in the county clerk's office is not compliance with the recordation requirements of 43 CFR 3833.2-1.

3. Notice: Generally--Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of duly promulgated regulations.

APPEARANCES: Clayton V. Curtis, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Clayton V. Curtis appeals from the decision of November 28, 1980, wherein the Wyoming State Office, Bureau of Land Management (BLM), declared the Frontier #1 through #3 mining claims W MC 159172 through 159174 abandoned and void because appellant failed to file either evidence of annual assessment work performed or a notice of intention to hold his mining claim within the time period required.

On appeal appellant contends that prior to the deadline of October 22, 1979, a statement of annual assessment work was on file with the county clerk at Sheridan, Wyoming, and that appellant did not know the filing with BLM was required.

[1] Section 314(a) of FLPMA, 43 U.S.C. § 1744(a) (1976), requires the owner of an unpatented mining claim located prior to October 21, 1976, to file evidence of annual assessment work with BLM on or before October 22, 1979. The implementing regulation, 43 CFR 3833.2-1(a), provides:

(a) The owner of an unpatented mining claim located on Federal lands on or before October 21, 1976, shall file in the proper BLM office on or before October 22, 1979, or on or before December 30 of each calendar year following the calendar year of such recording, whichever date is sooner, evidence of annual assessment work performed during the preceding assessment year or a notice of intention to hold the mining claim.

The claims in question were located on August 20, 1976, and the notices of location were filed with BLM on October 15, 1979. Appellant had until October 22, 1979, to file evidence of annual assessment work or a notice of intention to hold the subject mining claims but did not file either of these documents by the required date.

Failure so to file is considered conclusively to constitute abandonment of a claim under section 314(c) of FLPMA, 43 U.S.C. § 1744(c) (1976), and 43 CFR 3833.4. James V. Brady, 51 IBLA 361 (1980); Stanley Bishop, 50 IBLA 371 (1980); Donald D. Vesely, 50 IBLA 277 (1980); Kenneth K. Parker, 48 IBLA 129 (1980). In Topaz Beryllium Co. v. United States, 479 F. Supp. 309 (D. Utah 1979), appeal filed Civ. No. 79-2255 (10th Cir. Nov. 21, 1979), the court sustained the statutory recordation requirement and its implementing regulations against constitutional challenges. We therefore find the claims abandoned and void.

[2] The Board has held that filing a statement of annual assessment work with the county clerk where the claim is situated is not sufficient to meet the requirements of the statute and regulation that such statement be filed with BLM. Johannes Soyland, 52 IBLA 233 (1981).

[3] Further, the Board has repeatedly held that failure to know the law about recording mining claims will not excuse late filing. All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Edwin Forsberg, 47 IBLA 235 (1980); 44 U.S.C. §§ 1507, 1510 (1976).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Anne Poindexter Lewis
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Bruce R. Harris
Administrative Judge

